

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

FILED

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CLERK, U.S. DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

Joel GARCIA-Hernandez,

Defendant.

Magistrate Case No. \_\_\_\_\_

COMPLAINT FOR VIOLATION OF

Title 8, U.S.C., Section

1324(a)(2)(B)(iii)-

Bringing in Illegal Alien(s)

Without Presentation

DEPUTY

The undersigned complainant being duly sworn states:

On or about **July 12, 2008**, within the Southern District of California, defendant, **Joel GARCIA-Hernandez** with the intent to violate the immigration laws of the United States, knowing and in reckless disregard of the fact that an alien, namely, **Nohemi BAUTISTA-Lucatero**, had not received prior official authorization to come to, enter or reside in the United States, did bring to the United States said alien, and upon arrival did not bring and present said alien immediately to an appropriate immigration officer at a designated port of entry; in violation of Title 8, United States Code, Section 1324(a)(2)(B)(iii).

And the complainant states that this complaint is based on the attached statement of facts, which is incorporated herein by reference.

SIGNATURE OF COMPLAINANT

Sara Esparagoza, United States Customs  
and Border Protection Enforcement Officer

SWORN TO BEFORE ME AND SUBSCRIBED IN MY PRESENCE, THIS **14th** DAY OF  
**JULY, 2008.**

UNITED STATES MAGISTRATE JUDGE

**CATHY ANN BENCIVENGO**  
**U.S. MAGISTRATE JUDGE**

**PROBABLE CAUSE STATEMENT**

The complainant states that **Nohemi BAUSTISTA-Lucatero** is a citizen of a country other than the United States; that said alien has admitted she is deportable; that her testimony is material, that is impracticable to secure her attendance at the trial thereof by subpoena; and is a material witness in relation to this criminal charge and should be held or admitted to bail as prescribed in Title 18, United States Code, Section 3144.

On July 12, 2008, at approximately 2215 hours, **Joel GARCIA-Hernandez (Defendant)** applied for admission into the United States at the Tecate, California Port of Entry driving a red 1997 Ford F-150. Defendant presented an altered DSP-150 bearing his photo with the name Pedro Esteban Campos Contreras to a Customs and Border Protection (CBP) Officer. The CBP officer noticed the document appeared altered and optioned to secure the vehicle by taking the keys from Defendant. The CBP officer checked underneath the truck bed and saw what appeared to be human bodies in a compartment. The CBP officer received two negative customs declarations and referred the vehicle to secondary for further inspection.

In secondary, CBP officers discovered a total of three people concealed in the vehicle. One person was discovered lying under a specially built compartment under the back seat and two people were discovered lying under a specially built compartment under the cut-out truck bed covered by the bed liner. All three people were removed from the vehicle and identified as citizens of Mexico without legal documents to enter or reside in the United States. One of the concealed aliens was retained as a Material Witness and is now identified as **Nohemi BAUSTISTA-Lucatero (Material Witness)**.

During a videotaped proceeding, Defendant was advised of his Miranda Rights. Defendant acknowledged his rights and elected to answer questions without an attorney present. Defendant admitted he made the smuggling arrangements with two individuals, one of which provided him with the vehicle and the photo altered visa. Defendant admitted he originally was going to pay \$4,500 USD to be smuggled into the United States but because he decided to drive the vehicle he was to receive a discount and was only going to have to pay \$2,500 USD. Defendant admitted he believed the vehicle he was driving was too big and thought that there was possibly something wrong with the vehicle. Defendant admitted he had told the smugglers that he had been previously apprehended for smuggling drugs, therefore did not want the vehicle to contain drugs. Defendant admitted that upon crossing the border successfully he was instructed to drive the vehicle to the second checkpoint and wait for an unknown person to arrive in another vehicle and assume the driver's position. Defendant admitted that his purpose for entering the United States was in order to reunite with his children who he has not seen in the past eight years.

During a separate videotaped interview, Material Witness admitted she is a citizen and national of Mexico without legal documents to lawfully enter or reside in the United States. Material Witness stated she was going to pay an unknown amount to be smuggled into the United States. Material Witness stated she was traveling to Redwood, California to seek employment, attend school and study English.